

The US President Expands National Guard Deployments: Attorney Eric Gang Defines When Guardsmen Become True Veterans



Image Source: Eric Gang

Written by Jon Stojan

The president's recent decision to deploy **National Guard** units to Washington in response to crime has reignited a longstanding debate: when does a guardsman's service cross the threshold into veteran status, and what benefits should follow? For Eric Gang, founder of **Gang & Associates** and one of the nation's leading veterans' rights attorneys, the distinction is not just a matter of legal technicality; it can determine whether an injured guardsman receives federal benefits for life or nothing at all.



Image Source: Gang & Associates

"Every state and territory has a National Guard," Gang explains. "They are often called up during natural disasters or civil disturbances. But the real difference is who calls them, whether it's the governor or the president. That difference shapes what benefits they may ever receive."

If a governor activates the Guard, the mission is considered state service. Should a soldier be injured while filling sandbags after a flood or helping a community recover from a tornado, they may receive some state-level benefits but not federal veterans' compensation. By contrast, when the president activates the Guard under federal orders, that service is treated as active duty for federal purposes. As Gang emphasizes, *"If a guardsman is injured in the line of duty under federal activation, he is considered a veteran, and that opens the door to VA benefits, from disability compensation to education support and home loans."*

The stakes are particularly high as Guardsmen are deployed into urban environments marked by violent crime. *"It's one thing to support disaster relief," Gang notes. "It's another to be placed in the middle of unrest, where there are illegal guns on the street, where people may view them as hostile forces. These guardsmen face real risks, being shot at, assaulted, or even exposed to infectious diseases."*

Gang's work has made him a national voice on when Guard service counts as federal duty. His firm litigated **Watkins v. McDonough**, a landmark 2022 case in which the Court of Appeals for Veterans Claims considered when active duty officially begins. Gang argued successfully that a service member is deemed on active duty starting at 12:01 a.m. on the date listed in their orders, not just when they report later in the day. *"If someone is ordered to report at 8 a.m., and they get into a car accident on the way at 7 a.m., that still counts," Gang says. "The law recognizes that from the first moment of that day, they are subject to military justice, and they should also be entitled to veterans' benefits."*



Image Source: Veterans Disability Info

That interpretation matters. Guardsmen activated federally who suffer an injury, even en route to their duty station, can claim VA benefits if it occurred after 12:01 a.m. on their activation date. For Gang, this legal nuance ensures fairness. *"It wouldn't make sense," he stresses, "to hold someone accountable to the Uniform Code of Military Justice from 12:01 a.m. but deny them benefits if they were hurt that same morning."*

The line is sharper for National Guard service under governors. Those missions, however necessary for public safety, are not considered active duty in the federal sense. *"It can feel unfair," Gang acknowledges. "But Congress has drawn that line. State-activated guardsmen don't qualify for the same VA benefits, because their duty is not considered federal service."*

This split, he says, has deep political roots. Gang points to parallels with the civil rights era, when federal authorities deployed the Guard to enforce school desegregation over the objections of state governors. *"We have always had tension between state and federal authority," Gang observes. "Today, it plays out in debates over crime and immigration enforcement. But the ones caught in the middle are the guardsmen themselves. They are not political actors; they are simply doing their job."*

Gang stresses that these men and women should not be scapegoated. *"They are innocent parties. They don't decide where they are sent or who sends them. They deserve clarity about their status and the assurance that, if they are harmed in service, their country will take care of them."*

As deployments expand to other cities facing high crime, the questions that Gang raises grow more urgent. Guardsmen activated federally will qualify for VA benefits if injured or if they contract a disease in the line of duty. Those activated by governors may not. The distinction is critical for the thousands of citizen-soldiers who balance civilian lives with part-time service, and who may suddenly find themselves on the frontlines of contentious crises.

"It's important for these individuals to know what is included when they are deployed," Gang says. "Understanding when active duty starts, and under whose authority they are serving, can make all the difference in their future."



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